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09/847,198	05/03/2001	Deborah Ann Haitko	RD-28698	6436

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EXAMINER

COLON, GERMAN

ART UNIT	PAPER NUMBER
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2879

DATE MAILED: 10/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/847,198

Applicant(s)

HAITKO ET AL.

Examiner

German Colón

Art Unit

2879

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8 and 16 is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-15 is/are rejected.
- 7) ☒ Claim(s) 3 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-7 and 9-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the term "an effective amount" is a relative term which renders the claim indefinite. The term "an effective amount" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is unclear what amount of silver salt or gold salt would be effective in the device.

Referring to claims 2-7, claims 2-7 are rejected over the reasons stated in the rejection of claim 1 because of their dependency status from claim 1.

Regarding claim 9, the term "an effective amount" is a relative term which renders the claim indefinite. The term "an effective amount" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is unclear what amount of silver salt or gold salt would be effective in the device.

Referring to claims 10-15, claims 10-15 are rejected over the reasons stated in the rejection of claim 9 because of their dependency status from claim 9.

*Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 5, 7, 9, 10, 13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by De Maagt et al. (US 5,986,405).

Regarding claim 1, De Maagt discloses a mercury vapor discharge lamp (see Col. 5, line 11) comprising an amount of silver salt (see Col. 5, line 30).

Regarding claim 2, De Maagt discloses the silver salt being silver oxide (see Col. 5, line 30).

Regarding claim 5, De Maagt discloses the silver salt amount being 60 mg (see Col. 5, line 39).

Referring to claim 7, De Maagt discloses a mercury discharge lamp comprising an amount of silver salt. The Examiner notes that the recitation “the silver salt or gold salt prevents the interaction of elemental mercury with ferric and cupric compounds which oxides elemental mercury to a soluble form” has not been given patentable weight because is considered an intended used recitation. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ 2d 1647 (1987).

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Regarding claim 9, De Maagt discloses a method for providing a mercury vapor discharge lamp (see Col. 5, line 11) comprising an amount of silver salt.

Regarding claim 10, De Maagt discloses the silver salt being silver oxide (see Col. 5, line 30).

Regarding claim 13, De Maagt discloses the silver salt amount being 60 mg (see Col. 5, line 39).

Referring to claim 15, De Maagt discloses a mercury discharge lamp comprising an amount of silver salt. The Examiner notes that the recitation "the silver salt or gold salt prevents the interaction of elemental mercury with ferric and cupric compounds which oxides elemental mercury to a soluble form" has not been given patentable weight because is considered an intended used recitation. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ 2d 1647 (1987).

5. Claims 1, 2, 4, 9, 10, 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson et al. (US 5,972,442).

Regarding claim 1, Anderson discloses a mercury vapor discharge lamp comprising a silver salt and a gold salt (see Col. 4, line 51).

Referring to claim 2, Anderson discloses the silver salt being silver halide (AgI, AgBr, AgCl; see Col. 4, line 51).

Regarding claim 4, Anderson discloses the gold salt being gold halide (AuI, AuBr, AuCl; see Col. 4, line 51).

Regarding claim 9, Anderson discloses a method for providing a mercury vapor discharge lamp (see Col. 3, line 20) comprising an amount of silver salt and gold salt.

Referring to claim 10, Anderson discloses the silver salt being silver halide (AgI, AgBr, AgCl; see Col. 4, line 51).

Regarding claim 12, Anderson discloses the gold salt being gold halide (AuI, AuBr, AuCl; see Col. 4, line 51).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Maagt et al. (US 5,986,405).

Regarding claim 6, De Maagt discloses the claimed invention except for the limitation of "the silver salt or gold salt being present in a range between 10 mg and about 30 mg per lamp". However, De Maagt teaches that the amount of silver oxide is not critical; the amount may be influenced by the dimensions of the lamp, its production process and the presence of coatings inside the envelope. Further De Maagt discloses that the amount needed for each type of lamp can easily be determined by experimental procedures (see Col. 3, lines 56-60). Thus, it would

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have been obvious to one of ordinary skill in the art at the time the invention was made to use the silver salt in a range between 10 mg to about 30 mg, since De Maagt teaches that the amount of silver oxide is not critical; the amount may be influenced by the dimensions of the lamp, its production process and the presence of coatings inside the envelope. Further De Maagt discloses that the amount needed for each type of lamp can easily be determined by experimental procedures.

Regarding claim 14, De Maagt discloses the claimed invention except for the limitation of "the silver salt or gold salt being present in a range between 10 mg and about 30 mg per lamp". However, De Maagt teaches that the amount of silver oxide is not critical; the amount may be influenced by the dimensions of the lamp, its production process and the presence of coatings inside the envelope. Further De Maagt discloses that the amount needed for each type of lamp can easily be determined by experimental procedures (see Col. 3, lines 56-60). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the silver salt in a range between 10 mg to about 30 mg, since De Maagt teaches that the amount of silver oxide is not critical; the amount may be influenced by the dimensions of the lamp, its production process and the presence of coatings inside the envelope. Further De Maagt discloses that the amount needed for each type of lamp can easily be determined by experimental procedures.

*Allowable Subject Matter*

8. Claims 8 and 16 are allowed.

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9. Claims 3 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter:

The Examiner notes that the Prior Art of Record (see US 5,986,405 or US 5,972,442) teaches a mercury vapor discharge lamp comprising a silver salt or a gold salt.

Regarding claim 3, the references of the Prior Art of Record fail to teach or suggest the combination of the limitations as set forth in claim 3, and specifically comprising the limitation of "the silver salt being silver carbonate".

Referring to claim 8, the references of the Prior Art of Record fail to teach or suggest the combination of the limitations as set forth in claim 8, and specifically comprising the limitation of "a silver carbonate in a range between about 10 mg and about 30 mg per lamp".

Regarding claim 11, the references of the Prior Art of Record fail to teach or suggest the combination of the limitations as set forth in claim 11, and specifically comprising the limitation of "the silver salt being silver carbonate".

Regarding claim 16, the references of the Prior Art of Record fail to teach or suggest the combination of the limitations as set forth in claim 16, and specifically comprising the limitation of "a silver carbonate in a range between about 10 mg and about 30 mg per lamp".



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***Prior Art of Record***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Dietrich et al., in US Patent No. 6,224,446, discloses a control of leachable mercury in fluorescent lamps by addition of copper compounds.

Dietrich et al., in US Patent Application Pub. US2001/0020823 A1, discloses a control of leachable mercury in fluorescent lamps by addition of a gold or silver coating.

***Contact Information***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to German Colón whose telephone number is 703-305-5987. The examiner can normally be reached on Monday thru Friday, from 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on 703-305-4794. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7382 for regular communications and 703-308-7382 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

  
gc

October 18, 2002

  
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